




STATE OF OREGON
Legislative Counsel Committee

November 7, 2006

To: Marjorie Taylor, Committee Administrator,
Public Commission on the Oregon Legislature

From: Doug McKean, Senior Deputy Legislative Counsel 

Subject: LCs 1566 and 1566-1—Public Officials Compensation Commission

On behalf of the Public Commission on the Oregon Legislature, you requested a draft constitutional amendment to create an independent commission to establish salaries of certain public officials. You also requested a bill draft to amend the statutes relating to the Public Officials Compensation Commission.

Enclosed are the two drafts, LCs 1566 and 1566-1.

The first draft, LC 1566, is similar to LC 1072, which you submitted with the request, but includes the changes you asked for.

The second draft, LC 1566-1, is a draft joint resolution proposing an amendment to the Oregon Constitution to create the independent commission. The draft is modeled, to some extent, on Article 28 of the Washington Constitution.

Please note that LC 1566-1 might raise constitutional issues under section 1, Article XVII of the Oregon Constitution, and might be challenged on the basis that it contains more than one amendment to the Constitution. See *Armatta v. Kitzhaber*, 327 Or. 250, 959 P.2d 49 (1998). Arguably, the proposed amendment could implicitly change other provisions of the Oregon Constitution concerning appropriations and the authority of the Legislative Assembly. Based on decisions of the Oregon Supreme Court, I believe LC 1566-1 would probably survive an *Armatta* challenge, but this conclusion is not free from doubt. Of course, *Armatta* issues could be avoided by converting LC 1566-1 into a constitutional revision. See section 2, Article XVII of the Oregon Constitution.

Because of the limited time available to deliver these drafts to you, I haven't had time to prepare a full analysis of the "separate-vote" question; however, I wanted to bring the issue to your attention.

Encls.